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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAY 30 2014

JAMES W. McCORMACK, CLERK
By: Sous DEP. CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DIGITAL RECOGNITION NETWORK, INC.;
VIGILANT SOLUTIONS, INC.,

Plaintiffs,

v.

MIKE BEEBE, *in his official capacity as
Governor of the State of Arkansas*; DUSTIN
McDANIEL, *in his official capacity as
Attorney General of the State of Arkansas*,

Defendants.

DECLARATION OF SHAWN B. SMITH

Civil No. 4:14-cv-327 Sous

DECLARATION OF SHAWN B. SMITH

Shawn B. Smith, pursuant to 28 U.S.C. § 1746, declares as follows under penalty of perjury:

1. My name is Shawn B. Smith. I have personal knowledge of the facts set forth

herein, and I am otherwise competent to testify.

2. I am a United States citizen, and I reside at 10 Possum Lane, Portola Valley, CA 94028.

3. I am the President of Plaintiff Vigilant Solutions, Inc. (“Vigilant”).

4. Plaintiff Vigilant is a Delaware corporation with its headquarters located in Livermore, California.

5. Plaintiff Digital Recognition Network, Inc. (“DRN”) uses photographs and image-content analysis techniques to serve the financial services, insurance, and vehicle repossession industries. Because DRN and others use such techniques in an effort to locate specific content within a photograph—namely, the alphanumeric content printed on a license plate—the application of this technology that is at issue here is sometimes referred to as “automatic license plate reader” (“ALPR”) technology.

6. DRN sells ALPR camera kits to its “camera affiliates,” which are typically repossession companies. The camera affiliates place DRN’s ALPR systems on tow trucks or other vehicles. DRN’s ALPR systems then take photographs that include nearby vehicles’ license plates.

7. DRN has a partnership with Vigilant’s National Vehicle Location Service, through which DRN’s ALPR data is made available to law enforcement agencies—usually at no cost to the agencies. Specifically, when DRN’s camera affiliates collect license-plate data using ALPR systems, DRN provides captured license-plate data to Vigilant, which then shares the data with law enforcement agencies for purposes that range from utilizing near real-time alerts for locating missing persons and stolen vehicles to the use of historical license-plate data to solve crimes.

8. Before the Arkansas Automatic License Plate Reader System Act (“the Act”)¹ took effect, DRN was collecting ALPR data in Arkansas and disseminating the data to Vigilant, which was then sharing the data with law enforcement agencies.

9. Prior to the effective date of the Act, Vigilant served law enforcement agencies in Arkansas. These law enforcement agencies accessed Vigilant’s ALPR data network for the purposes of locating vehicles of interest to law enforcement investigations.

10. Prior to the effective date of the Act, when law enforcement agencies in Arkansas made queries against Vigilant’s data, the data sometimes resulted in investigative leads. Vigilant’s data thus assisted law enforcement in efforts such as locating fugitives, locating abducted children, and investigating and solving a variety of major crimes. In many (if not all) cases, Vigilant provided this data free of charge.

11. The Act’s prohibition on the “use” of an ALPR system precludes Vigilant from disseminating or disclosing license-plate data that is captured by an ALPR system and from using ALPR systems to collect license-plate data. *See* Ark. Code § 12-12-1803(a).

12. The Act prohibits Vigilant from receiving DRN’s Arkansas-based license-plate data and from disseminating this data to law enforcement agencies. In short, Vigilant’s operations in Arkansas have ceased.

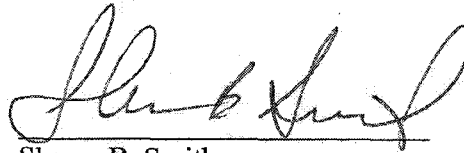
¹ 2013 Ark. Acts 1491 (codified at Ark. Code § 12-12-1801 *et seq.*).

13. But for the Act, Vigilant would receive Arkansas-based ALPR data from DRN and would disseminate it to law enforcement agencies.

14. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29 day of May, 2014.

Livermore, CA
City State


Shawn B. Smith

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2014, a true and correct copy of the foregoing will be served on the following party via hand delivery, consistent with both Fed. R. Civ. P. 4(e)(2)(A) and 4(j)(2):

Mike Beebe, Governor of the State of Arkansas
State Capitol
Room 250
Little Rock, AR 72201

In addition, I hereby certify that on May 30, 2014, a true and correct copy of the foregoing was served on the following party via certified mail at the following address:

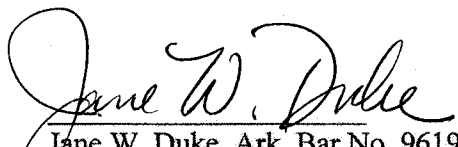
Mike Beebe, Governor of the State of Arkansas
State Capitol
Room 250
Little Rock, AR 72201

In addition, I hereby certify that on May 30, 2014, a true and correct copy of the foregoing will be served on the following party via hand delivery, consistent with Fed. R. Civ. P. 4(e)(2)(A), at the following address:

Dustin McDaniel, Attorney General of the State of Arkansas
Attorney General's Office
323 Center Street, Suite 200
Little Rock, AR 72201

In addition, I hereby certify that on May 30, 2014, a true and correct copy of the foregoing was served on the following party via certified mail, consistent with Fed. R. Civ. P. 5.1(a)(2), at the following address:

Dustin McDaniel, Attorney General of the State of Arkansas
Attorney General's Office
323 Center Street, Suite 200
Little Rock, AR 72201


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